

Name: \_\_\_\_\_

### **Democracy & Authority in the Warren Court**

Today's class we will be examining various Supreme Court Cases that appeared under Chief Justice Earl Warren. You are to read answer the questions on the document, then go through and answer the questions in the chart below.

Court Case	How did this court case & ruling impact individual rights or civil liberties?	How did this court case & ruling impact various levels of authority - local, state and the federal government?	How does this court case & it's ruling compare or contrast to Supreme Court cases of the past? Be specific!
Mapp v. Ohio 1961			
Gideon v. Wainwright 1963			
<del>Reynolds v. Sims 1964</del>	<del></del>	<del></del>	<del></del>

Court Case	How did this court case & ruling impact individual rights or civil liberties?	How did this court case & ruling impact various levels of authority – local, state and the federal government?	How does this court case & it's ruling compare or contrast to Supreme Court cases of the past? Be specific!
Miranda v. Arizona 1966			
Tinker v. Des Moines 1969			

How did the rulings of the Warren court compare/contrast with previous Supreme Court rulings regarding the rights of the people and power of the federal, state and local governments?

Are you noticing any patterns or themes to the Supreme Court's impact on democracy & authority over time?

# Supreme Court Case Study 41



## The Legality of Evidence Seized by the Police

### *Mapp v. Ohio, 1961*

#### \*\*\*\*\* Background of the Case \*\*\*\*\*

In May 1957, three police officers arrived at Dollree Mapp's home after having received a tip that a fugitive had hidden there. Mapp, who had phoned her attorney, refused to admit the police officers. They notified their headquarters, and the officers began their surveillance of the house.

Three hours later four more police officers arrived. They knocked on the door, and when Mapp did not immediately answer, they forced the door and entered. Mapp demanded to see a search warrant. One of the officers held up a piece of paper, claiming it was the warrant. Mapp snatched the paper and stuffed it into her blouse. After a scuffle, the officers recovered the paper and handcuffed Mapp.

While this was transpiring, Mapp's attorney arrived, but the police refused to let him enter the house or have access to his client. The police then began to search the house. They did not find a fugitive in the house; however, in the course of their search which covered the entire residence, they turned up some material they deemed obscene. Mapp was charged and eventually convicted of having lewd and lascivious books and pictures in her possession, a violation of an Ohio statute.

At her trial, the state produced no search warrant, but the failure to produce one went unexplained. Mapp was convicted of having violated the Ohio law. On appeal, the Ohio Supreme Court upheld the conviction even though the evidence against her had been illegally seized. Mapp appealed her case to the United States Supreme Court.

#### *Constitutional Issue* \*\*\*\*\*

Suppose the police arrive at your house in response to a call reporting an intruder. While looking for the reported intruder, the police undertake, without a warrant, a search of dresser drawers in various bedrooms where they find a supply of illegal drugs. Can this evidence be introduced at your trial on charges of drug possession? This question involves what has been called the "exclusionary rule"—that is, a rule that evidence seized in violation of a person's constitutional rights may not be used against that person in a trial.

In *Wolf v. Colorado* (1949), a case similar to the *Mapp* case, the Supreme Court had recognized that the Fourth Amendment embodies the right of an individual to privacy but declined to forbid illegally seized evidence from being used at trial. Since the 1914 decision in *Weeks v. United States*, illegally seized evidence could not be used in federal courts. The issue in the *Mapp* case was whether or not the exclusionary rule of *Weeks*, applied to the states through the Fourteenth Amendment, also prohibited illegally seized evidence in state courts.

## Supreme Court Case Study 41 (continued)



### \*\*\*\*\* The Supreme Court's Decision \*\*\*\*\*

The Court voted 6 to 3 to reverse the Ohio Supreme Court's decision. Justice Tom C. Clark wrote for the majority:

"In extending the substantive protection of due process to all constitutionally unreasonable searches—state or federal—it was logically and constitutionally necessary that the exclusion doctrine—an essential part of the right to privacy—be also insisted upon. . . . In other words, privacy without the exclusionary rule would be a hollow right. . . ." The Court held that this right could not continue to tolerate the admission of unlawfully seized evidence.

The *Mapp* decision was seen by the Court as the end of a double standard by which "a federal prosecutor may make no use of evidence illegally seized, but a State's attorney across the street may. . . ." Justice Clark wrote that this decision also ended an unfortunate situation in which "the State, by admitting evidence unlawfully seized, serves to encourage disobedience to the Federal Constitution which it is bound to uphold."

Clark was aware that the Court's ruling would sometimes result in criminals going free because of an error on the part of the police. To this possibility he responded, "The criminal goes free, if he must, but it is the law that sets him free. Nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence."

### \*\*\*\*\* Dissenting Opinions \*\*\*\*\*

Justice John Marshall Harlan dissented. He doubted the federal exclusionary rule was constitutional and suggested that, under federalism, court remedies for illegally seized evidence should be left to the states.



#### Questions

**DIRECTIONS:** Answer the following questions on a separate sheet of paper.

1. According to the Court's decision, why may illegally seized evidence not be used in a trial?
2. Why, according to Justice Clark, is it better for a criminal to go free than to convict the criminal with illegally seized evidence?
3. What was the illegally seized evidence in the *Mapp* case?
4. What was the "double standard" referred to in the Court's decision?
5. Do you agree with the Court's decision in the *Mapp* case? Give reasons for your answer.

# Supreme Court Case Study 45



## A Poor Defendant's Right to a Lawyer

### *Gideon v. Wainwright*, 1963

#### \*\*\*\*\* Background of the Case \*\*\*\*\*

"From time to time in constitutional history an obscure individual becomes the symbol of a great movement in legal doctrine. Character and circumstances illuminate a new understanding of the Constitution. So it was in the case of Clarence Earl Gideon," according to Anthony Lewis, a noted civil libertarian.

In 1961 Clarence Earl Gideon, a petty thief who had served four prison terms, was arrested for breaking into a poolroom in Panama City, Florida, and stealing a pint of wine and some change from a cigarette machine.

At his trial Gideon asked the judge to appoint a lawyer for him since he could not afford to hire one himself. The judge refused because under Florida law a lawyer could be provided only if the defendant was charged with a capital offense—one in which death was a possible penalty.

Gideon then pleaded not guilty; he conducted his own defense, but was found guilty and sentenced to five years in prison. From prison Gideon submitted a handwritten petition to the United States Supreme Court to accept his case as a pauper. In such cases the Court may accept petitions from indigent individuals and then appoint counsel to represent them before the Court. In this case, the Court appointed Abe Fortas, who later was to become a Supreme Court justice, as Gideon's attorney.

#### *Constitutional Issue* \*\*\*\*\*

The Court accepted Gideon's case in order to reconsider its decision in the case of *Betts v. Brady* (1942). In that case, the Court had ruled that, outside of special circumstances, the due process clause of the Fourteenth Amendment did not require the application of the Sixth Amendment's guarantee of counsel in criminal cases to state trials. In a still earlier case, *Powell v. Alabama*, the Court had ensured that state courts would provide counsel in capital cases. The issue in the *Gideon* case deals with whether a defendant in a criminal case who cannot afford a lawyer is deprived of his or her Sixth Amendment right to counsel if he is not supplied with one.

#### \*\*\*\*\* The Supreme Court's Decision \*\*\*\*\*

The Court ruled in Gideon's favor, overturning its decision in the *Betts* case. Justice Hugo Black wrote for the opinion for the Court.

Black's opinion stated that the decision in *Betts* represented an abrupt break from precedents such as those found in *Powell*. These precedents, he observed, as well as "reason and reflection," convinced the Court that "in our adversary system of criminal justice, any person haled [brought] into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him."

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## Supreme Court Case Study 45 (continued)



Black went on to stress that poor and rich alike are entitled to counsel. "Lawyers to prosecute are everywhere deemed essential to protect the public's interest in an orderly society. Similarly, there are few defendants charged with crime, few indeed, who fail to hire the best lawyers they can get to prepare and present their defenses. That government hires lawyers to prosecute, and defendants who have money hire lawyers to defend are the strongest indications of the widespread belief that lawyers in criminal courts are necessities, not luxuries. The right of counsel of one charged with a crime may not be deemed fundamental and essential for fair trials in some countries, but it is in ours."

Black continued, "From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble ideal cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him."

In making the point that Gideon, like most people, did not have the expertise to defend himself, Black quoted the words of the Court in the *Powell* case: "The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. Left without the aid of counsel he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge to prepare his defense adequately, even though he may have a perfect one. He requires the guiding hand of counsel at every step of the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence."

Gideon was tried again in the court that had convicted him, this time with a court-appointed lawyer. Before the same judge and in the same courtroom, Gideon was acquitted.



### Questions

**DIRECTIONS:** Answer the following questions on a separate sheet of paper.

1. Why did the Court believe that Gideon could not defend himself?
2. Did the Court rule that a defendant could never act as his or her own lawyer? Explain.
3. In overturning its *Betts* ruling, what did the Court in effect say about its judgment in that case?
4. Under the *Gideon* ruling, why is a trial judge required to appoint a lawyer for defendants who claim they are too poor to pay for one?
5. Why is the *Gideon* decision regarded as a historic civil liberties victory?

# Supreme Court Case Study 50



## The Rights of the Accused

### *Miranda v. Arizona, 1966*

#### \*\*\*\*\* Background of the Case \*\*\*\*\*

Ernesto Miranda had been arrested at his home in Phoenix, Arizona, and accused of kidnapping and rape. Questioned at the police station by two police officers, he was not advised of his right to an attorney nor his right to remain silent. After two hours of interrogation, he signed a written confession to the crimes. At his trial, he was found guilty and sentenced to 20 to 30 years in prison. He took his case to the United States Supreme Court.

#### *Constitutional Issue* \*\*\*\*\*

The Fifth Amendment of the Constitution guarantees that "no person . . . shall be compelled in any criminal case to be a witness against himself. . . ." This right was made part of the Bill of Rights to prevent a tyrannical government from forcing accused persons to confess to crimes they may or may not have committed. Miranda's case before the Supreme Court was based on this Fifth Amendment protection. The Court accepted the case in order to explore and clarify certain problems arising from earlier decisions related to the rights of individuals taken into police custody. The precise question that the Court explored was under what circumstances an interrogation may take place so that a confession made during the interrogation would be constitutionally admissible in a court of law.

#### \*\*\*\*\* The Supreme Court's Decision \*\*\*\*\*

The Supreme Court overturned Miranda's conviction in a 5 to 4 decision. Chief Justice Earl Warren wrote the majority opinion. The Court's ruling centered on what happens when a person is taken into custody. No statement from the suspect, the Court held, may be used when it stems from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination. By custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom in any significant way.

Warren noted that a suspect under interrogation is subject to great psychological pressures designed "to overbear the will," and that questioning often takes place in an environment "created for no other purpose than to subjugate the individual to the will of his examiner." In overturning Miranda's conviction, the Court intended "to combat these pressures and to permit a full opportunity to exercise the privilege against self-incrimination. . . ."

A person in police custody "or otherwise deprived of his freedom. . . must be warned prior to any questioning that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney, one will be appointed for him prior to any questioning if he so desires," Warren stated.

## Supreme Court Case Study 50 (continued)



Once these warnings are given, the individual in custody may choose to stop answering questions, or may halt the interrogation until his attorney is present. Otherwise, he may waive his exercise of these rights. In such a case, there would be "a heavy burden . . . on the Government to demonstrate that the defendant knowingly and intelligently waived his privilege against self-incrimination and his right to . . . counsel."

The *Miranda* ruling applies only to interrogations. The Court emphasized that such safeguards were "not intended to hamper the traditional function of police officers in investigating crime. . . ." The ruling was not meant to bar "general on-the-scene questioning as to facts surrounding a crime or other general questioning of citizens in the fact-finding process. . . ." In addition, the Chief Justice declared, the Fifth Amendment does not bar voluntary statements from a person who, for example, enters a police station "... to confess to a crime, or a person who calls the police to offer a confession or any other statement he desires to make."

The *Miranda* ruling has led to the practice now followed routinely by arresting police officers and other law enforcement officials during which they read a suspect his or her *Miranda* rights.

### ★★★★★★★★★★★★★★★★★★★★ Dissenting Opinion ★★★★★★★★★★★★★★★★★★

Justices John Marshall Harlan, Tom C. Clark, Potter Stewart, and Byron White dissented. They saw no historical precedent for the majority position and feared the decision could weaken law enforcement. Justice White condemned the majority for creating law enforcement directives he viewed as inflexible, while at the same time leaving many unanswered questions.



### Questions ★★★★★★★★★★★★★★★★★★

**DIRECTIONS:** Answer the following questions on a separate sheet of paper.

1. How has the Supreme Court interpreted the Fifth Amendment's protection against self-incrimination to apply to all persons questioned in connection with a crime?
2. Suppose you were arrested as a suspect in a crime. The arresting officers rush you to a tiny room where they question you for 12 hours without a stop. Then, too weary to protest, you sign a confession. How would the Court's *Miranda* decision protect you in such a situation?
3. At the scene of a crime, a police officer questions witnesses about the details of a holdup. The officer suspects that some of the witnesses are connected with the crime. How does the *Miranda* decision apply in such an instance?
4. What do you think would happen if a person convicted of a crime proved that she or he was not informed of the *Miranda* rights when questioned by the police?
5. In recent years, the *Miranda* decision has been criticized by some persons as protecting the rights of criminals and neglecting the rights of crime victims. Do you agree or disagree with this point of view? Why?



# Supreme Court Case Study 53



## Freedom of Expression in Public Schools

### *Tinker v. Des Moines, 1969*

#### \*\*\*\*\* Background of the Case \*\*\*\*\*

Throughout the 1960s, television broadcasts carried graphic images of the Vietnam War. In December of 1965, John Tinker, his sister Mary Beth, and their friend Christopher Eckhardt decided to protest the war. They planned to wear black armbands to their schools in Des Moines, Iowa. When the school board learned of their plans, it adopted a policy that banned the wearing of armbands. Any students who violated this policy would be suspended.

Several students, including the Tinkers, went ahead with their protest. The students were suspended when they refused to remove the armbands. Through their parents, the students asked the district court to issue an injunction against the policy. The district court refused, stating that the school policy was "reasonable." A divided appellate court upheld this decision. The petitioners then appealed to the United States Supreme Court, which agreed to review the case.

#### *Constitutional Issue* \*\*\*\*\*

The Court was asked to decide whether wearing armbands is a form of free speech, and thus protected under the First Amendment. The students claimed that wearing armbands was a way to express their ideas and opinions about the Vietnam War. Lawyers for the school board argued that the Tenth Amendment gives the states authority over education. The school board's policy was needed to preserve order and discipline in the schools.

The U.S. Supreme Court had extended the First Amendment to cover the actions of state officials in *Gitlow v. New York* (1925). Later, in *West Virginia v. Barnette* (1943) the Court struck down a law requiring students to salute the American flag.

#### \*\*\*\*\* The Supreme Court's Decision \*\*\*\*\*

In a 7 to 2 decision, the Supreme Court ruled in favor of the Tinkers and the students. The Court determined that the wearing of armbands was protected by the First Amendment's free speech clause.

Justice Abe Fortas wrote the Court's opinion. Justice Fortas wrote that wearing armbands was an action "akin to pure speech." Further, he wrote, "It can hardly be argued that either students or teachers shed their constitutional rights . . . at the schoolhouse gate." He found little evidence that this silent protest disrupted the school environment. Justice Fortas wrote that the school board officials acted out of an "urgent wish to avoid controversy," rather than a fear of disrupting school activities.

Justice Potter Stewart wrote, however, in a concurring opinion, that, "[A] State may permissibly determine that, at least in some precisely delineated areas, a child . . . is not possessed of that full capacity for individual choice which is the presupposition of First Amendment guarantees."

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## Supreme Court Case Study 53 (continued)



The *Tinker* case remains controversial to this day. In more recent cases, the Court has limited students' First Amendment rights. In *Bethel School District v. Fraser* (1986), the Court upheld the disciplining of a student for using offensive speech in a school assembly. In *Hazelwood School District v. Kuhlmeier* (1988) the Court ruled in favor of a school district that censored student newspaper articles with mature subject matter.

### \*\*\*\*\* Dissenting Opinion \*\*\*\*\*

Justice Hugo Black dissented. Justice Black pointed out that the wearing of armbands had led to mockery from other students and other disruptive behavior. This diversion from their normal school day was exactly what the school officials had wanted to avoid. Justice Black's dissent also contended that "some students . . . will be ready, able, and willing to defy their teachers on practically all orders."

Justice John Marshall Harlan, in a separate dissent, argued that school officials should have wide latitude in maintaining discipline. He further wrote that the school board's policy appeared to be motivated by genuine concerns.



### Questions \*\*\*\*\*

**DIRECTIONS:** Answer the following questions on a separate sheet of paper.

1. Why does wearing armbands fall within the protection of the free speech clause?
2. Do you agree more with Justice Fortas's opinion or Justice Black's dissent? Give reasons for your answer.
3. Why is the *Tinker* decision considered such an important First Amendment case?
4. How does the *Tinker* decision affect your right to wear a T-shirt supporting a cause that you believe in?
5. How has the ruling in *Tinker* been modified by later Supreme Court decisions?